

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

Orly TAITZ,)	
)	
Plaintiff,)	
)	Civil Action No. 1:14-cv-00119
)	
v.)	
)	
Jeh JOHNSON, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

**DEFENDANTS' RESPONSE TO PLAINTIFF'S NOTICE OF NEW FACTS AND
PETITION/MOTION FOR SANCTIONS (ECF NO. 63)**

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INTRODUCTION

This Court should deny Plaintiff's latest motion, (ECF No. 63), because neither Defendants nor their witnesses have not made any false statements or misrepresentations to this Court at any time in this case. Rather, all witnesses who the Government presented at the two hearings in this case testified forthrightly, and answered the Court's and Dr. Taitz's questions on August 27, 2014 and October 29 2014. Accordingly, this Court should not sanction Defendants or their witnesses in this case.

With respect to the portion of Plaintiff's Motion where she seeks to provide the Court with notice of new facts, the information provided by Plaintiff is incomplete, at best. Certainly, Plaintiff provides copies of two letters regarding an alien in custody with tuberculosis, which inquire about his potential release. There is a person in U. S. Immigration and Customs Enforcement ("ICE") custody in Arizona who has been diagnosed with multi-drug resistant tuberculosis.¹ That person has not been released from ICE custody and, at this time, ICE has no plans to release him. (*See* Declaration of ICE Assistant Field Office Director Martin Zalenka, attached as Appendix A). That alien's condition, treatment plan, and status are set forth in Appendix B, a Declaration from the Chief Medical Officer for ICE.

ARGUMENT

Plaintiff asserts:

Defendants and their witnesses perpetrated fraud on the court and knowingly asserted things that are flagrantly not true or there was a recent change of policy which they were obligated to report to this court and they did not do so, which is fraud as well, as this is a material fact, a change in material facts, which they knew would affect decision by this court.

¹ The Government will refer to this person as "Mr. Doe" rather than redact this pleading or file it under seal.

(ECF No. 63, at 7). Notably, Plaintiff does not point to any particular statement by any witness or counsel in this case which she believes is false, but instead Plaintiff attaches two pieces of correspondence: a letter from the Director of Public Health for Pinal County, Arizona to a lobbyist dated March 30, 2015; and a letter members of the U.S. Senate and House of Representatives from Arizona to ICE dated April 2, 2015, regarding an alien in ICE custody, presumably Mr. Doe, who has tuberculosis.

At the hearing conducted in this case on October 29, 2014, Dr. Miguel Escobido testified about the procedures in place to deal with aliens with tuberculosis. (*See generally* transcript of Oct. 29, 2014 Hearing at pages 119 - 124 and Government Exhibits 4, 5, 6, 7, 8, 9 and 11.) Further, Dr. Escobido testified about a particular occasion where the Government had identified a person at a port of entry with tuberculosis. (*See* transcript of Oct. 29, 2014 Hearing at 142.) Plaintiff does not point to any part of Dr. Escobido's (or anyone else's) testimony, or any arguments by counsel, which she believes are untrue, yet she asserts that Defendants have committed unspecified "egregious misconduct." (*See* ECF No. 63, at 8.) Plaintiff is wrong, and this Court should deny her latest Motion.

In order to clarify for this Court the context of the March and April 2015 correspondence that Plaintiff attached to her Motion, the Government provides declarations about Mr. Doe's present condition and the status of his immigration custody. (*See* Appendices A and B to this opposition.)

CONCLUSION

The Court should deny Dr. Taitz's Motion for Sanctions, and likewise deny Plaintiff's requests for other relief included in her Motion. Further, this Court should dismiss this case in its entirety, as Plaintiff lacks standing for any of her claims.

Respectfully submitted,

/s/ Colin A. Kisor
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CERTIFICATE OF SERVICE

I, Colin Kisor, do hereby certify that on May 1, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

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